

ESTTA Tracking number: **ESTTA417681**

Filing date: **07/01/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Bedessee Imports Ltd.
Granted to Date of previous extension	07/06/2011
Address	2 Golden Gate Court Toronto, ONT M1P3A5 CANADA
Domestic Representative	Samuel Friedman Attorney at Law Samuel Friedman, PC 225 Broadway, Suite 1804 New York, NY 10007 UNITED STATES samfriedman@verizon.net Phone:212-267-2900

Applicant Information

Application No	85001755	Publication date	03/08/2011
Opposition Filing Date	07/01/2011	Opposition Period Ends	07/06/2011
International Registration No.	NONE	International Registration Date	NONE
Applicant	E. MARTINAVARRO, S.A. Manuel Vivanco, 12 Almazora, Castell�n, 12550 SPAIN		

Goods/Services Affected by Opposition

Class 031. All goods and services in the class are opposed, namely: Fresh fruits and fresh vegetables
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Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
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Registration Date	NONE
Word Mark	CHICO
Goods/Services	Baking Powder, Beans, Butterfish, Canned Meat, Canned Fish, Canned Vegetables, Cassareep Pomeroon, Cassava (Frozen), Cassava Sauce, Cassava-Yuca-Frozen, Channa , Chick Peas, Chowmein Noodles, Coconut Oil, Condiments, Corned Mutton, Curry Powder, Dried Vegetables, Fresh Frozen Fruits, Fresh Frozen Vegetables, Fruit Based Snacks Foods, Hearts Of Palm, Lemonade Soda, Meat, Mustard Oil, Noodles, Nuts, Peanuts, Okra, Palm Oil, Par-Boiled Rice, Pasta, Pastry, Peas, Peas-Split Yellow, Pepper Crushed, Pepper Crushed No Seed, Pepper Oil, Pepper Sauce, Pepper Sauce Crushed, Pigeon Peas, Plantain Chips, Processed Vegetables, Raw Vegetables, Raisins, Rice, Rice Flour, Saffron for use as a Food Seasoning, Saffron Spanish, Saffron-Spanish-Whole Strands, Salt, Sauces, Snapper Steak, Soft Drinks, Soya Oil, Soya Sauce, Spices, Vegetables, Vegetable Based Snack Foods, Vegetable Oils

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Design Mark			
Goods/Services	Baking Powder, Beans, Butterfish, Canned Meat, Canned Fish, Canned Vegetables, Cassareep Pomeroon, Cassava (Frozen), Cassava Sauce, Cassava-Yuca-Frozen, Channa , Chick Peas, Chowmein Noodles, Coconut Oil, Condiments, Corned Mutton, Curry Powder, Dried Vegetables, Fresh Frozen Fruits, Fresh Frozen Vegetables, Fruit Based Snacks Foods, Hearts Of Palm, Lemonade Soda, Meat, Mustard Oil, Noodles, Nuts, Peanuts, Okra, Palm Oil, Par-Boiled Rice, Pasta, Pastry, Peas, Peas-Split Yellow, Pepper Crushed, Pepper Crushed No Seed, Pepper Oil, Pepper Sauce,		

	Pepper Sauce Crushed, Pigeon Peas, Plantain Chips, Processed Vegetables, Raw Vegetables, Raisins, Rice, Rice Flour, Saffron for use as a Food Seasoning, Saffron Spanish, Saffron-Spanish-Whole Strands, Salt, Sauces, Snapper Steak, Soft Drinks, Soya Oil, Soya Sauce, Spices, Vegetables, Vegetable Based Snack Foods, Vegetable Oils
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Attachments	CHICO and Design.jpg NOTICE OF OPPOSITION.pdf (5 pages)(115421 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Samuel Friedman/
Name	Samuel Friedman
Date	07/01/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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In the Matter of Application :
Serial No. 85-001755 :
Published: March 8, 2011 :
 : Opposition No. _____
BEDESSEE IMPORTS LTD. :
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 : Opposer, :
 v. :
 :
 :
E. MARTINAVARRO, S.A. :
 :
 : Applicant. :
-----X

NOTICE OF OPPOSITION

Opposer, Bedessee Imports Ltd., a corporation incorporated in the Province of Ontario, Republic of Canada, and located at 2 Golden Gate, Toronto, Ontario M1P3A5, CANADA (“Bedessee”) will be damaged by registration of the trademark CHICO for “fresh fruits and fresh vegetables” in International Class 31, as shown in Application Serial No. 85-001755 (hereinafter, the “Application”), and hereby opposes the same.

As grounds for opposition, Opposer, through its counsel, alleges as follows:

1. Opposer Bedessee Imports Ltd. (“Bedessee”) is the owner of the famous trademark CHICO for, among other products, Baking Powder, Beans, Butterfish, Canned Meat, Canned Fish, Canned Vegetables, Cassareep Pomeroon, Cassava (Frozen), Cassava Sauce, Cassava-Yuca-Frozen, Channa , Chick Peas, Chowmein Noodles, Coconut Oil, Condiments, Corned Mutton, Curry Powder, Dried Vegetables, Fresh Frozen Fruits, Fresh Frozen Vegetables, Fruit Based Snacks Foods, Hearts Of Palm, Lemonade Soda, Meat, Mustard Oil, Noodles, Nuts, Peanuts, Okra, Palm Oil, Par-Boiled Rice, Pasta, Pastry, Peas, Peas-Split Yellow, Pepper

Crushed, Pepper Crushed No Seed, Pepper Oil, Pepper Sauce, Pepper Sauce Crushed, Pigeon Peas, Plantain Chips, Processed Vegetables, Raw Vegetables, Raisins, Rice, Rice Flour, Saffron for use as a Food Seasoning, Saffron Spanish, Saffron-Spanish-Whole Strands, Salt, Sauces, Snapper Steak, Soft Drinks, Soya Oil, Soya Sauce, Spices, Vegetables, Vegetable Based Snack Foods, Vegetable Oils (the “Goods”).

2. Bedessee has continuously used the trademark CHICO in connection with the promotion and sale of the Goods in the United States since long prior to any priority date on which Applicant can rely.

3. Opposer’s CHICO brand products are available and sold to consumers throughout the United States.

4. Over the years, the volume of sales of goods in the United States sold under Opposer’s CHICO trademark has been enormous.

5. The extraordinary success of Opposer’s CHICO brand products over many years has engendered wide renown with the trade and the public and the products sold under the mark have a reputation for being of the highest quality.

6. Opposer continuously and extensively advertises and promotes its CHICO trademark and products throughout the United States.

7. Opposer has spent significant sums to advertise and promote the CHICO mark and products throughout the United States.

8. Opposer advertises and promotes the CHICO brand extensively.

9. Because of Opposer’s extensive advertising, promotion and use of the CHICO mark, the mark has acquired enormous value and has become extremely well known to

the consuming public as identifying and distinguishing Opposer's CHICO products from those of competitors.

10. CHICO is a distinctive and famous trademark and represents and symbolizes a valuable business, which belongs exclusively to Opposer.

11. As a result of Opposer's extensive use of the CHICO trademark, the mark has come to be recognized by the public as identifying Opposer as the source of goods bearing the mark, and represents enormous goodwill belonging exclusively to Opposer.

12. Opposer owns Canadian Trademark Registration No. TMA307076, issued by the Canadian Intellectual Property Office, on September 20, 1985, for canned meat, canned fish, curry powder, condiments, pepper sauce, soya sauce, cassava sauce, chowmein noodles, peas, beans, rice, vegetable oil, aerated soft drinks and frozen vegetables.

13. The CHICO trademark is famous and became famous prior to the filing date of Applicant's Application or any use by Applicant of the CHICO mark.

14. Opposer believes it will be damaged by registration of Applicant's CHICO mark under § 13 of the Lanham Act, 15 U.S.C. § 1063, because consumers, familiar with Opposer's famous CHICO mark are likely to believe, mistakenly, that Applicant or its products emanate from, are sponsored or authorized by, or are otherwise associated or affiliated with Opposer, in violation of § 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

15. Opposer believes it will be damaged by registration of Applicant's CHICO mark under § 13 of the Lanham Act, 15 U.S.C. § 1063 because Applicant's use of the mark CHICO is likely to dilute the distinctive quality of Opposer's famous CHICO trademark by lessening the capacity for the trademark to identify and distinguish Opposer exclusively as the

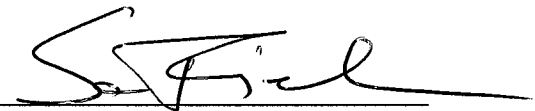
source of goods provided under the CHICO trademark, in violation of § 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

16. By reason of the foregoing, Opposer will be damaged by registration of the mark shown in Application Serial No. 85-001755 and Applicant is therefore not entitled to a registration for said mark.

WHEREFORE, Opposer respectfully request that this Opposition be sustained and that registration of the mark shown in Application Serial No. 85-001755 be in all respects refused and denied.

Dated: New York, New York
July 1, 2011

SAMUEL FRIEDMAN, P.C.

By: 
Samuel Friedman, Esq.
225 Broadway, Suite 1804
New York, New York 10007
(212) 267-2900

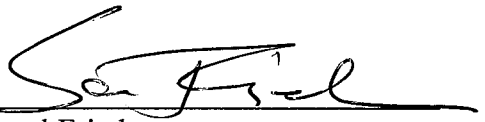
Attorneys for Opposer
Bedessee Imports Ltd.

CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2011, a true and correct copy of the foregoing Notice of Opposition was served, via First Class Mail, postage prepaid, on Applicant and Applicant's attorneys of Record at the following address set forth after the name:

Perla M. Kuhn, Esq.
Hughes Hubbard & Reed LLP
1 Battery Park Plaza
New York, New York 10004

E. MARTINAVARRO, S.A.
Manuel Vivanco, 12
Almazora, Castellón, 12550
SPAIN



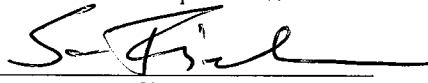
Samuel Friedman

July 1, 2011

Date

I hereby certify that this correspondence is being filed with the Trademark Trial and Appeal Board through use of the Electronic System for Trademark Trials and Appeals (ESTTA)

July 1, 2011
(Date of Electronic Filing)
Samuel Friedman
Name of Representative



Signature
July 1, 2011
Date of Signature